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January 20, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

OUR FILE NO.

26292.80200

Maggie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

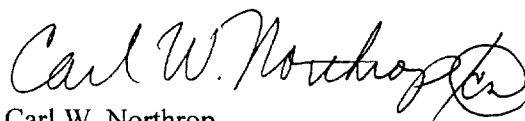
Re: Ex Parte Presentation; CC Docket Nos. 96-98; 95-185/CCB/CPD 97-24;
File Nos. E-98-10; E-98-08

Dear Ms. Salas:

On January 16, 1998, Angela Giancarlo and Rob Hoggarth of the Personal Communication Industry Association ("PCIA"), and the undersigned, met on behalf of PCIA with Kurt Schroeder and Debra Sabourin of the Enforcement Division of the Common Carrier Bureau. The purpose of the meeting was to discuss the *ex parte* procedures to be applied to any future formal complaints which raise issues that also are involved in petitions for reconsideration or clarification of the *First Report & Order* in the *Local Competition* proceeding. The substance of PCIA's position is reflected in a draft *Public Notice* which was distributed at the meeting, a copy of which is attached.

Kindly refer any questions concerning this matter to the undersigned.

Respectfully submitted,



Carl W. Northrop
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosure

cc: Mr. Kurt Schroeder
Ms. Debra Sabourin
Ms. Angela E. Giancarlo
Mr. Robert L. Hoggarth

WASHINGTON D.C. 75942.1

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PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

DA 98-_____

Released: January _____, 1998

**EX PARTE PROCEDURES ESTABLISHED FOR FORMAL COMPLAINTS
FILED BY COMMERCIAL MOBILE RADIO SERVICE CARRIERS
AGAINST INCUMBENT LECS RAISING INTERCONNECTION ISSUES
ALSO THE SUBJECT OF PETITIONS FOR RECONSIDERATION
OF THE IMPLEMENTATION OF THE
LOCAL COMPETITION PROVISIONS IN THE
TELECOMMUNICATIONS ACT OF 1996
(CC DOCKET NOS. 96-98, 95-185, CCB/CPD 97-24)**

On August 8, 1996, the Commission released a *Report and Order* which discussed, among other things, interconnection rights and obligations between LECs and CMRS providers. *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order*, CC Docket Nos. 96-98, 95-185, 11 FCC Rcd 15499 (1996) ("*Local Competition Order*"), *aff'd in part and vacated in part sub nom. Competitive Telecommunications Assn. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *petitions for cert. filed* 66 U.S.L.W. 3387 (U.S. Nov. 19, 1997) (No. 97-831), *Order on Reconsideration*, 11 FCC Rcd 13042 (1996), *Second Order on Reconsideration*, 11 FCC Rcd 19738 (1996), *Third Order on Reconsideration and Further Notice of Proposed Rulemaking*, 12 FCC Rcd. 1246 (1997), *further recon. pending*. Petitions for reconsideration in the *Local Competition Order* are still pending. The *Local Competition Order* proceeding is a "permit-but-disclose" proceeding for purposes of the Commission's *ex parte* rules. *See* 47 C.F.R. § 1.1206.

The Commission has received certain formal complaints asserting violations by incumbent local exchange carriers (ILECS) of the Commission's interconnection requirements as set forth in the *Local Competition Order*. *See, e.g.*, Formal Complaints filed by AirTouch Paging against GTE (File Nos. E-98-08, E-98-10). Certain interconnection-related issues are common to both the formal complaint proceedings and the reconsideration phase of the rulemaking proceeding. To ensure that the staff's ability to discuss and obtain information needed to resolve the issues in the rulemaking proceeding remains unhampered during the pendency of the formal complaint proceedings, the Commission has elected to treat such issues as "permit-but-disclose" for *ex parte* purposes. *See, e.g.*, *Public Notice*, DA 97-2582, released December 10, 1997. It is the

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Commission's intention to treat any future formal complaints raising interconnected-related issues of this nature in a similar fashion.

Because time can pass between the time when a formal complaint is filed and a public notice is issued indicating that the common issues will be treated as "permit-but-disclose" for purposes of the *ex parte* rules, uncertainty can result regarding the permissibility of presentations during this interim period. This public notice is intended to clarify the situation.

Any party filing a formal complaint that raises interconnection-related issues that are also under consideration on reconsideration of the *Local Competition Order* is requested to so indicate in the formal complaint, and request that the common issues be treated as subject to permit-but-disclose procedures for purposes of the Commission's *ex parte* rules. However, failure of a complainant to make such a request shall not alter the prerogative of the Commission to designate portions of the formal complaint proceeding as permit-but-disclose as it has in the past.

Parties wishing to make presentations on the merits of the issues pending on reconsideration in the *Local Competition Order* proceeding will be permitted to do so during the period after a formal complaint is filed and before a public notice is issued formally announcing that such complaint is to be treated as a permit-but-disclose proceeding with reference to common interconnection-related issues. In accordance with our rules, such presentations will be followed by a report of the *ex parte* contacts, which will be listed by the Commission in a public notice of *ex parte* contact with reference to CC Docket Nos. 96-98, 95-185 and/or CCB/CPD 97-24. Parties to the complaint proceeding thus will receive notice of *ex parte* presentations that occurred in the *Local Competition Order* proceeding after the filing of the complaint but prior to release of the public notice establishing *ex parte* procedures with regard to the complaint.

To the extent that *ex parte* presentations are made in the *Local Competition Order* proceedings by a party to a new complaint proceeding after the complaint is filed but prior to release of a public notice establishing *ex parte* procedures, the party must refile the resulting *ex parte* notice with a cover letter making specific reference to the docket number in the formal complaint proceeding once known.

For information regarding the formal complaint proceedings, please contact Deena Shetler of the Enforcement Division, Common Carrier Bureau, at (202) 418-0960. The formal complaint materials are available for inspection and copying in the Enforcement Division, Formal Complaints and Investigations Branch, Room 6120, 2025 M Street, N.W., Washington, D.C. 20554. For information regarding the petitions for reconsideration in the *Local Competition*

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Order proceeding, please contact Edward B. Krachmer, Competitive Pricing Division, Common Carrier Bureau, at (202) 418-0198. The reconsideration comments and reply comments are available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. Copies can also be obtained from ITS at 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 or by calling (202) 857-3800.

By the Acting Chief, Enforcement Division, Common Carrier Bureau.

WASHINGTON D. C. 75588.1